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10/593,916	09/22/2006	Filippo Furlotti	357153/0012	5886

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EXAMINER	
LOFFREDO, JUSTIN E	
ART UNIT	PAPER NUMBER
3744	
MAIL DATE	DELIVERY MODE
04/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/593,916	FURLOTTI, FILIPPO	
	Examiner	Art Unit	
	JUSTIN LOFFREDO	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 February 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4 and 6-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *18 and 19* is/are allowed.

6)☒ Claim(s) *1,2,4,6-16 and 20-26* is/are rejected.

7)☒ Claim(s) *17* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 September 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “one or more cooling mechanisms” (claim 1, line 8) and "gripping components” (claim 1, line 13; claim 2, line 2; claim 22, lines 5-6; claim 23, line 2; claim 25, lines 9 and 11-12; and claim 26, lines 8-9) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. **Claims 1, 2, 4, 6-17 and 20-26** are objected to because of the following informalities:

Consider claims 1, 2, 22, 23, 25 and 26, wherein applicant claims "gripping components" (line 13, line 2, lines 5-6, line 2, lines 9 and 11-12 and lines 8-9, respectively). From applicant's specification there is no mention of "a pair of gripping components", but there is mention of "a pair of cooling components" (page 4), so for the purposes of examination this limitation has been interpreted as - -cooling components- -.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 1, 2, 4, 6, 8, 9, 15, 16, 20 and 22-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiramoto et al (US Patent No. 6,655,114 B2) in view of Kundert (US Patent No. 2,759,339).

Consider claims 1, 2, 8, 20 and 26. Hiramoto et al. disclose a first embodiment of a system (1) capable of cooling a sealed portion of a container (7) comprising: a transferring arrangement (see Figure 1 below), a platform (3), and a cooling arrangement (see Figure 1 below) clearly having one or more cooling mechanisms since the sealed portion of the container (7) is cooled at step (10) (col. 4, L 13-59; Fig. 1).

The first embodiment of Hiramoto et al. fails to disclose one or more gripping mechanisms or a pair of cooling components, however the fourth embodiment of Hiramoto et al. teaches a cooling rotor (235) (corresponding to the one or more gripping mechanisms), and cooling plates (391) (corresponding to the claimed pair of cooling components) to hold container (501) (col. 13, L 65-col. 14, L 46; Figs. 14 & 21A-21C).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the cooling and transporting system disclosed in the first embodiment of Hiramoto et al. to incorporate the gripping structure as taught by the fourth embodiment of Hiramoto et al. in order to provide a means to securely hold the containers being transferred and cooled.

Although Hiramoto et al. fail to disclose a plurality of cooling arrangements, the mere duplication of parts has no patentable significance unless a new and unexpected result is produced; and in this case including a plurality of cooling arrangements would

allow a plurality of container seals to be cooled, which is neither a new nor unexpected result, and therefore such a modification would have been an obvious mechanical expedient to an ordinarily skilled artisan at the time of the invention.

Hiramoto et al. fail to disclose a supply or removal mechanism; or that cooling fluid flows within the cooling components and thermally interacts with the sealed portions. Kundert teaches supply mechanism (8, 13) and removal mechanism (6, 12), and that cooling fluid flows in the space within frame (15) and cooling plate (18) (corresponding one of the claimed cooling components since Hiramoto et al. discloses cooling components being cooling plates), the supply mechanism (8, 13) and the removal mechanism (6, 12) each being connected to the cooling component (col. 1, L 29-col. 2, L 41; Figs. 1 & 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pair of cooling components of the system disclosed by Hiramoto et al. to incorporate a supply and removal mechanism for a cooling fluid flowing within as taught by Kundert in order to provide direct and constant cooling to the containers being held between the cooling components.

Consider claim 4. Kundert discloses an electromotor (1) that drives a compressor (2) (corresponding to the claimed discharge mechanism) (col. 1, L 49-55; Fig. 1).

Consider claim 6. Although Hiramoto et al. and Kundert fail to disclose the supply and removal mechanisms being at least partially within a shaft around which the platform revolves, it would have been an obvious matter of design choice to modify the container cooling and transport system disclosed by Hiramoto et al. and Kundert by having the supply and removal mechanisms at least partially within a shaft around

which the platform revolves, since applicant has not disclosed that having the supply and removal mechanisms partially within the shaft solves any stated problem or is for any particular purpose. Furthermore, it would have been an obvious mechanical expedient to an ordinarily skilled artisan to provide the supply and removal mechanisms at least partially within a shaft at the center of the platform in order to provide a more compact cooling and transport system.

Consider claim 9. Kundert discloses using water as the cooling fluid (col. 1, L 50-55). Although Hiramoto et al. and Kundert fail to disclose using water within a range of about 12ºC to 20ºC, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art; and it would have been obvious to one of ordinary skill in the art at the time of the invention to use water at about 12ºC to 20ºC in order to provide cooling water that is below room temperature, which is typically accepted as about 25ºC, so that effective cooling will occur, and also in order to ensure that the water does not freeze since it is to be used at a temperature above 0ºC.

Consider claim 15. Hiramoto et al. disclose that various devices provided on the sealed portion cooling rotor (235) are the same as those on the primary sealing rotor (227) for heating, which is subsequently as having; an inner plate (299) is secured to bracket (295) (corresponding to the claimed fixed cooling component), and outer plate (300) is movable (corresponding to the claimed displaceable cooling component), wherein the displaceable cooling component (300) is selectively displaceable between an open position and a closed position (col. 10, L 37-col. 11, L 57; col. 13, L 65-col. 14, L 5; Figs. 16 & 21A-21C).

Consider claim 16. Hiramoto et al. disclose an actuator (311) (col. 11, L 31-57; Fig. 16).

Consider claims 22 and 23. Refer to the rejection of claim 1. Hiramoto et al. further disclose a sealer (29) for sealing a flexible container (7) to form a sealed portion; and cooling the sealed portion at step (10) during the transfer of the flexible container (7) (col. 4, L 22-59; Fig. 1).

Consider claim 24. Refer to the rejection of claim 9.

Consider claim 25. Refer to the rejection of claim 1. Hiramoto et al. further disclose a container sealing arrangement (29) and a filling arrangement (step 7) (col. 4, L 22-59; Fig. 1).

6. **Claims 10-14 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiramoto et al. (US Patent No. 6,655,114 B2) and Kundert (US Patent No. 2,759,339) as applied to claim 1, and further in view of Bonatti et al. (US Patent No. 6,938,753 B2).

Consider claims 10-14. Hiramoto et al. and Kundert disclose the invention as claimed, but fail to disclose a radially movable pincer, a sliding seat, a roller connected to the pincer, a support platform having a groove wherein the roller is slidably movable within the groove, the groove being a loop with a second radius larger than a first radius. Bonatti et al. teach a transfer unit for containers comprising a radially movable pincer (25, 2), a sliding seat (21), a rollers (53, 44) connected to the pincer (25, 26), and a support platform (40) having a guide means (29) made up of a first track (39) and a

second track (41), and an actuating means (51) comprising a cam sector (52) (corresponding to the claimed groove being a loop with a second radius at the cam sector (52) being larger than a first radius when roller (53) is not engaged with the cam sector (52)) (col. 2, L 26-col. 3, L 54; Figs. 1, 3, 4 & 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gripping mechanism disclosed by Hiramoto et al. and Kundert to comprise a pincer arrangement capable of extending and retracting to grasp and release containers as taught by Bonatti et al. in order to automatically grip and release containers, wherein the containers are securely held within the pincers while being transferred in order to lessen the possibility of accidental release and spillage of the contents contained therein.

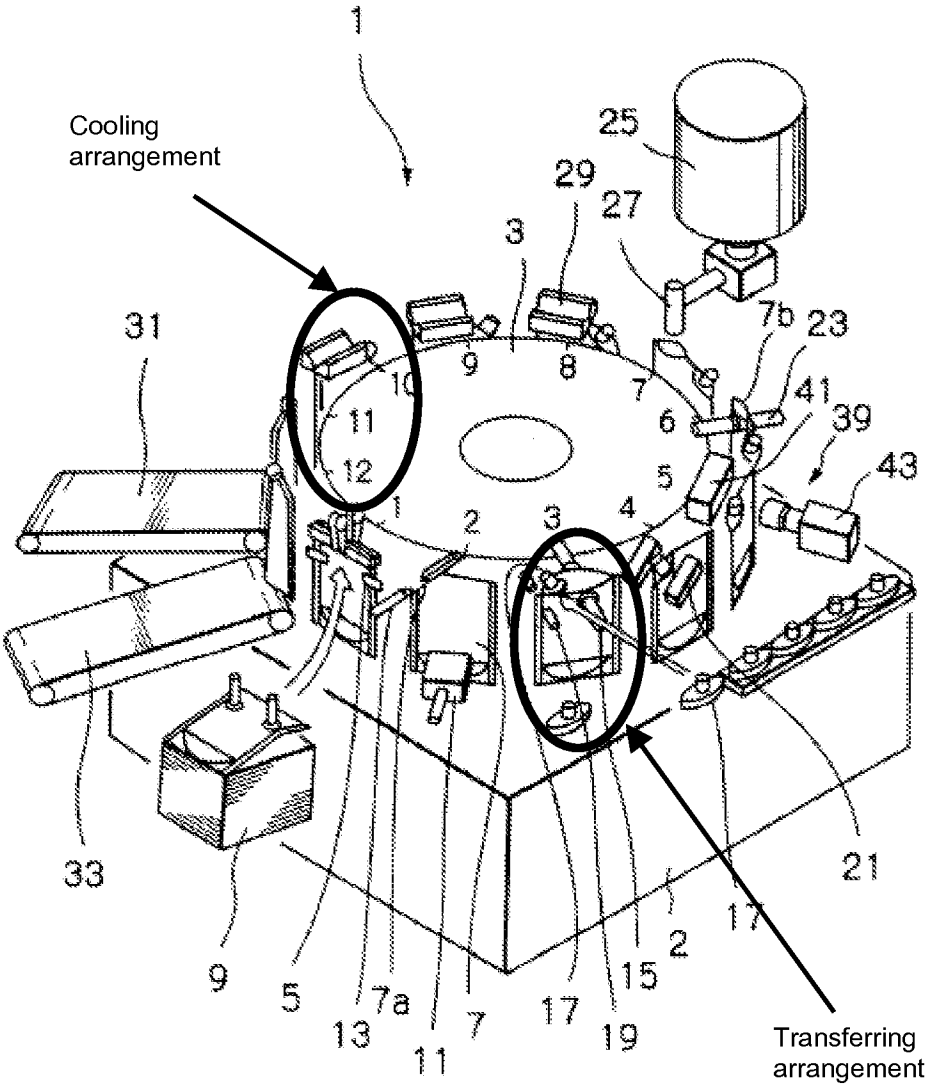
Consider claim 21. Refer to the rejection of claim 15. Furthermore, Bonatti et al. disclose the pincer arrangement (25, 26) comprising an open and closed position (Figs. 1 & 5), and it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the operation of the container transportation and cooling system disclosed by Hiramoto et al. and Kundert so that the open position and the closed position of the pincer arrangement as taught by Bonatti correspond to the open position and closed position of the displaceable cooling component, respectively, in order to enable the retrieval and release of containers to be filled, sealed and cooled effectively while being transferred.

7. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiramoto et al. (US Patent No. 6,655,114 B2) and Kundert (US Patent No. 2,759,339) as applied to claim 1, and further in view of Huvey (US Patent No. 4,811,761).

Consider claim 7. Hiramoto et al. and Kundert disclose the invention as claimed, but fail to disclose that each of the supply and removal mechanisms comprise a flexible tube. Huvey teaches a flexible tube (see Figures 1 & 2) for carrying cooling fluids (col.3, L 60-col. 4, L 9; Figs 1 & 2), and it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the supply and removal mechanisms disclosed by Hiramoto et al. and Kundert to be flexible tubes as taught by Huvey in order to enable a user to easily reconfigure the supply and removal mechanisms as opposed to rigid tube constructions, which are often more complex and costly than flexible tubes.

8. There are numerous examples of functional language recited in apparatus claims 1-21 and 25-26 such as: “a transferring arrangement *for transferring one or more containers*” (claim 1, line 2); “a groove *for receiving the roller*” (claim 12, line 7); and "one or more gripping mechanisms *for gripping the containers*" (claim 18, line 7). Applicant should note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. Since the prior art structure in the instant case is capable of performing the intended use, it meets the claim.

Hiramoto et al. – Figure 1



Allowable Subject Matter

9. **Claim 17** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. **Claims 18 and 19** are allowed.

Response to Arguments

11. Applicant's arguments with respect to claims 1-3, 4, and 6-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUSTIN LOFFREDO whose telephone number is (571) 270-7114. The examiner can normally be reached on M - F 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler &. Frantz Jules can be reached on (571) 272-4834 & (571) 272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin Loffredo
April 16, 2009

/Cheryl J. Tyler/
Supervisory Patent Examiner, Art Unit 3744